

**Office of Thrift Supervision, Treasury****§ 584.4**

or in part, such service or activity as the Office finds necessary in order to ensure compliance with the provisions and purposes of this part and of section 10 of the Home Owners' Loan Act, as amended, or to prevent evasions thereof.

(3) Except as may be otherwise provided in a resolution by or on behalf of the Office in a particular case, a service or activity commenced pursuant to this section shall not be altered in any material respect from that described in the notice filed under paragraph (c)(1) of this section, unless before making such alteration notice of intent to do so is filed in compliance with the appropriate procedures of said paragraph (c)(1) of this section.

(d) *Service corporation subsidiaries of savings associations.* The Office hereby approves without application the furnishing or performing of such services or engaging in such activities as permitted by the Office pursuant to 12 CFR 545.74, as in effect on March 5, 1987, if such service or activity is conducted by a service corporation subsidiary of a subsidiary savings association of a savings and loan holding company and if such service corporation has legal power to do so.

[54 FR 49708, Nov. 30, 1989, as amended at 55 FR 13518, Apr. 11, 1990; 57 FR 14349, Apr. 20, 1992; 60 FR 66870, Dec. 27, 1995; 63 FR 71213, Dec. 24, 1998; 66 FR 15017, Mar. 15, 2001]

**§ 584.2-2 Permissible bank holding company activities of savings and loan holding companies.**

(a) *General.* For purposes of § 584.2(b)(6)(i) of this part, the services and activities permissible for bank holding companies pursuant to regulations that the Board of Governors of the Federal Reserve System has promulgated pursuant to section 4(c) of the Bank Holding Company Act are permissible for savings and loan holding companies, or subsidiaries thereof that are neither savings associations nor service corporation subsidiaries of subsidiary savings associations: *Provided*, That no savings and loan holding company shall commence any activity described in this paragraph (a) without the prior approval of this Office pursuant to paragraph (b) of this section, unless—

(1) The holding company received a rating of satisfactory or above prior to January 1, 2008, or a composite rating of "1" or "2" thereafter, in its most recent examination, and is not in a troubled condition as defined in § 563.555, and the holding company does not propose to commence the activity by an acquisition (in whole or in part) of a going concern; or

(2) The activity is permissible under authority other than section 10(c)(2)(F)(i) of the HOLA without prior notice or approval. Where an activity is within the scope of both § 584.2-1 of this part and this section, the procedures of § 584.2-1 of this part shall govern.

(b) *Procedures for applications.* Applications to commence any activity prescribed under paragraph (a) of this section shall be filed with the OTS. OTS must act upon such application under the guidelines in part 516, subpart E of this chapter.

(c) *Factors considered in acting on applications.* In evaluating an application filed under paragraph (b) of this section, the OTS shall consider whether the performance by the applicant of the activity can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices). This consideration includes an evaluation of the financial and managerial resources of the applicant, including its subsidiaries, and of any company to be acquired, and the effect of the proposed transaction on those resources.

[54 FR 49708, Nov. 30, 1989, as amended at 55 FR 13518, Apr. 11, 1990; 57 FR 14349, Apr. 20, 1992; 60 FR 66720, Dec. 26, 1995; 63 FR 71213, Dec. 24, 1998; 66 FR 13010, Mar. 2, 2001; 72 FR 72238, Dec. 20, 2007]

**§ 584.4 Certain acquisitions by savings and loan holding companies.**

(a) *Acquisitions by a savings and loan holding company of more than five percent of a non-subsidiary savings association or savings and loan holding company.* No savings and loan holding company, directly or indirectly, or through

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one or more subsidiaries or through one or more transactions, shall, without prior written OTS approval, acquire by purchase or otherwise, or retain, more than five percent of the voting stock or shares of a savings association not a subsidiary, or of a savings and loan holding company not a subsidiary. A savings and loan holding company seeking approval of an acquisition under this section must file an application under 12 CFR part 516, subpart A. Applications filed under this section are subject to the publication, public comment, and meeting provisions of 12 CFR part 516, subparts B, C, and D. OTS will review applications filed under this section under the review standards set forth for savings and loan holding company applications in section 10(e)(2) of the HOLA, § 574.7(c) of this chapter, and § 563e.29(a) of this chapter.

(b) *Certain acquisitions by multiple savings and loan holding companies.* No multiple savings and loan holding company (other than a savings and loan holding company described in § 584.2a(a)(1)(ii) of this part) may, directly or indirectly, or through one or more subsidiaries or through one or more transactions, acquire or retain more than five percent of the voting shares of any company that is not a subsidiary that is engaged in any business activity other than those specified in § 584.2(b) of this part.

(c)(1) *Exception for certain acquisitions of voting shares of savings associations and savings and loan holding companies.* Paragraphs (a) and (b) of this section do not apply to voting shares of a savings association or of a savings and loan holding company—

(i) Held as a *bona fide* fiduciary (whether with or without the sole discretion to vote such shares);

(ii) Held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

(iii) Held in an account solely for trading purposes or over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

(iv) Acquired in securing or collecting a debt previously contracted in good faith, for two years after the date

of acquisition or for such additional time (not exceeding three years) as the Office may permit if, in the Office's judgment, such an extension would not be detrimental to the public interest;

(v) Acquired under section 13(k)(1)(A)(i) of the Federal Deposit Insurance Act (or section 408(m) of the National Housing Act as in effect immediately prior to the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989);

(vi) Held by any insurance companies as defined in section 2(a)(17) of the Investment Company Act of 1940: *Provided*, That all shares held by all insurance company affiliates of such savings association or savings and loan holding company may not, in the aggregate, exceed five percent of all outstanding shares or of the voting power of the savings association or savings and loan holding company, and such shares are not acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company; and

(vii) Acquired pursuant to a qualified stock issuance if such a purchase is approved pursuant to § 574.8 of this chapter.

(2) The aggregate amount of shares held under this paragraph (c) (other than pursuant to paragraphs (c)(1)(i) through (iv) and (c)(1)(vi)) may not exceed 15 percent of all outstanding shares or the voting power of a savings association or savings and loan holding company.

(d) *Acquisitions of uninsured institutions.* No savings and loan holding company may, directly or indirectly, or through one or more subsidiaries or through one or more transactions, acquire control of an uninsured institution or retain, for more than one year after the date any savings association subsidiary becomes uninsured, control of such association.

[72 FR 72238, Dec. 20, 2007]

### § 584.9 Prohibited acts.

(a) *Control of mutual savings association.* No savings and loan holding company or any subsidiary thereof, or any director, officer, or employee of a savings and loan holding company or subsidiary thereof, or person owning, controlling, or holding with power to vote,